

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, September 1, 2004

Division One

A103403 -- Caspar H. Escher, Jr., et al.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

A101941 -- Sierra Club v. County of Napa et al., Berenger Wine Estates et al., R.P.I.

By the Court: The request to publish the opinion previously filed on August 6, 2004, is hereby granted. The written opinion filed on August 6, 2004, is certified for publication. The written opinion filed on August 6, 2004, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is therefore ordered that it be published in the official reports. Stein, Acting P.J.

Division Three

A101571, A102811 -- Virologic, Inc. v. Doe.

The judgment and cost award are reversed, and the order granting Doe's special motion to strike under section 425.16 is vacated. On remand, the trial court is directed to enter an order permitting disclosure of Doe's identity to appropriate corporate officers of ViroLogic; however, in so doing, the court shall retain discretion to enter appropriate protective orders to limit dissemination of this information and safeguard Doe's privacy. The trial court may then entertain any further motions precipitated by such disclosure. Each side shall bear its own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, September 1, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Parrilli J., Corrigan, J., Pollak, J., and C. Turner, Deputy Clerk.

Justice McGuiness announced that the panel for A102834, People v. Cassidy, the panel is comprised of Parrilli, J., Pollak, and himself.

A102834 The People,

v.

Michael J. Cassidy,

Cause called and argued by Jonathan David Soglin, counsel for appellant,
and Michael E. Banister, counsel for respondent.

Cause ordered submitted.

Justice Parrilli left the bench.

A102916 Robert H. Field,

v.

U-Haul Company of East Bay, et al.,

Cause called and argued by William Ruel Walker, counsel for appellant, and
William Scott Kronenberg, counsel for respondent.

Cause ordered submitted.

A103017 The People,

v.

Natalee Brown,

Cause called and argued by Victor James Morse, counsel for appellant, and
Violet E. Lee, counsel for respondent. Cause ordered submitted.

court adjourned

Thursday, September 2, 2004

Division Two

A103067 -- The People v. Pedro De Jesus Ramos.

Appellant's conviction is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Five

A104880 -- Estate of Frances Cueny, Deceased.

The trial court's order denying appellant's petition is affirmed. Appellant shall pay respondent's costs on appeal. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

A101893 -- The People v. Dennis Jon McGraw.

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Friday, September 3, 2004

Division One

A103384 -- The People v. Raymond Campbell.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A102405 -- Campaign To Restore Jackson State Redwood Forest, et al. v. California Department of Forestry and Fire Protection, et al.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A103017 -- The People v. Natalee F. Brown.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Five

A102953, A103453 -- Nicole Nunn v. City and County of San Francisco; Zenith Insurance Company.

The judgment is reversed. Plaintiff shall recover her costs for this appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, September 7, 2004

Division Three

A104782 -- In re Jerred H., a Person Coming Under the Juvenile Court Law. Jerred H. v. Contra Costa County Children and Family Services Bureau.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

A101223 -- The People v. Jorge Antonio Pantoja.

The matter is reversed and remanded for further proceedings consistent with this opinion. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Certified for Publication.)

Division Five

A106088 -- In re Lobene S., a Person Coming Under the Juvenile Court Law. The People v. Lobene S.

The judgment is reversed, and the matter is remanded to the juvenile court for a new disposition hearing that complies with Welfare and Institutions Code section 241.1. The remittitur shall be immediately issued. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Wednesday, September 8, 2004

Division One

A101941 -- Sierra Club v. County of Napa, et al. v. Beringer Wine Estates, et al.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Two

A104592 -- The People v. James Eugene Orr, Jr.

The appeal is dismissed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A100996 -- Donald E. Yeager et al. v. Chevron U.S.A. Inc.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A102834 -- The People v. Michael J. Cassidy.

The judgment is modified to stay imposition of sentence on count 2 (receiving stolen property). As so modified, the judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

A102916 -- Robert H. Field v. U-Haul Company of East Bay et al.

The judgment is reversed and the matter is remanded for further proceedings consistent with this opinion. The order denying leave to amend is affirmed. The determination that the trial court did not abuse its discretion in denying the motion to amend as untimely does not preclude the trial court from reconsidering the motion if renewed, based on the circumstances at the time of the renewal. Plaintiff shall recover his costs on appeal. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Wednesday, September 8, 2004 (continued)

Division Four

A105498 -- The People v. William Scott McCall.

Judgment affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J.
(Not for Publication.)

Division Five

A105434 -- In re Tristen J., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Sandra J.

The order terminating parental rights is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Thursday, September 09, 2004

Division Two

**A105102 --In re Z.A., a Person Coming Under the Juvenile Court Law.
San Francisco Department of Human Services v. Danita A.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A102026 -- City and County of San Francisco v. Flying Dutchman
Park, Inc. et al.**

The judgment is reversed. The case is hereby remanded to the trial court to enter a new judgment consistent with this opinion, including the amount of tax due and owing, together with any accrued interest. The subsequent judgment shall direct that the amount of the judgment, when paid by Flying Dutchman, shall be deposited in CCSF's general fund and not be subject to the allocation provided for in section 615, subdivision (a)(3), which provision we declare to be unconstitutional. Costs on appeal are awarded to CCSF. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Certified for Publication.)

**A101292, A102317 -- City of San Rafael v. Margaret L. Zitek, as
Trustee, etc.**

The judgment is affirmed. The post-trial order granting the City's motion for attorney's fees and costs is also affirmed. The parties shall bear their own costs on appeal. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Four

A104395 -- The People v. Dale Allen Thompson.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Thursday, September 09, 2004 (continued)

Division Five

A105361 -- Estate of Marvin Jones, Deceased.

The order is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J.
(Not for Publication.)

Friday, September 10, 2004

Division One

A102308 -- Data Communications Professionals v. Pacific Bell Network Integration et al.

The judgment is reversed and the matter is remanded to the trial court for further proceedings consistent with the views expressed herein. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A104895 -- The People v. Jimmy Ray Mack.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Three

A106031 -- The People v. Julie Marie Erb.

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

A106069 -- In re Anthony P., a Person Coming Under the Juvenile Court Law. The People v. Anthony P.

The juvenile court orders, dated December 8, 2003, and February 20, 2004, are affirmed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Division Five

A103224 -- Sofia U. New v. San Francisco Unified School District.

The summary judgment is affirmed. Respondent shall be awarded its costs on appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, September 10, 2004 (continued)

A101916 -- June F. Shore et al. v. Deborah L. Gurnett.

The judgment is affirmed. Costs on appeal are awarded to plaintiffs. Following issuance of the remittitur, upon appropriate motion filed in the trial court, plaintiffs shall recover their reasonable attorney fees incurred for successfully defending against the appeal. (Code Civ. Proc., § 1021.4.) Simons, J. We Concur: Jones, P.J., Gemello, J. (Certified for Partial Publication.)

Monday, September 13, 2004

Division One

A106490 -- The People v. Adrian Hines.

We find no arguable issues after a full review of the record and, accordingly, affirm the judgment. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A102832 -- The People v. Victor Lopez.

The judgment of conviction is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A105774 -- The People v. Antoine Terrell Moore.

We find no arguable issues that require further briefing and accordingly, affirm the judgment. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A103483 -- In re the Marriage of Susan and Mark Navratil.

The portion of the order awarding attorney fees to respondent is affirmed. The order terminating spousal support “permanently and forevermore” is reversed, and the matter is remanded to the court with directions that it may exercise its discretion to reduce support effective June 3, 2003, to an amount it determines appropriate based upon respondent’s March 24, 2003 motion. Each party shall bear its own costs. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Monday, September 13, 2004

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., and I. Santos, Deputy Clerk.

- A103168 Naveen Chopra et al.,
 v.
 Advo, Inc.
Cause called and argued by Dylan Carp, counsel for appellant, and Ellen Lake, counsel for respondent. Cause ordered submitted.
- A101572 Mose Stroughter et al.,
 v.
 State Farm Fire & Casualty Co. et al.
Cause called and argued by E. Gerard Mannion, counsel for appellant, and Mark G. Bonino and Clarke B. Holland, counsel for respondents. Cause ordered submitted.
- A104489 John Loar et al.,
 v.
 Richard Singer et al.
Cause called and argued by Thomas Charchut, counsel for appellant, and William T. Webb, counsel for respondent. Cause ordered submitted.
- A105178 Surland Homes et al.,
 v.
 Caliber Indemnity Company et al.
Cause called and argued by Ed Regalia, counsel for appellant, and Darrel Hieber, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J., Haerle, J., Lambden, J., Ruvolo, J., and S. Wheeler, Deputy Clerk.

At this point of the proceedings, Presiding Justice Kline, informs the court that he will not be participating in the first case. Justices Haerle, Lambden and Ruvolo will be participating in the first case.

A102079 Desmond Morgan et al.,
 v.
 Dennis Weaver et al.
Cause called and argued by Elise Sanguinetti, counsel for appellant, and
Suzanne McDonnell, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Lambden left the bench and Justice
Kline participated in the remainder of the calendar along with Justices
Haerle and Ruvolo.

A103446 John Baba et al.,
 v.
 San Francisco Board of Supervisors et al.
Cause called and argued by Wayne Snodgrass, counsel for appellant, and
Clifford Fried, counsel for respondent. Cause ordered submitted.

A101485/
A102094 Robert S. Kolodge,
 v.
 Wendell Harris et al.
Cause called and argued by Cheryl Martinsen, counsel for appellant, and
Robert Dolan, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Monday, September 13, 2004 (continued)

Division Three

A103559 -- The People v. Frederick June Hanneman.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A104911 -- Raimi Shoaga v. Kenneth Young, et al.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Monday, September 13, 2004 (continued)

Division Four

A107274 -- Clarence S. v. The Superior Court of San Francisco County; San Francisco Department of Human Services, R.P.I.

We reverse the orders of July 15, 2004, referring the matter to a Welfare and Institutions Code section 366.26 hearing, and direct that the juvenile court conduct a new hearing on petitioner's motion to establish presumed father status and set aside the jurisdictional and dispositional orders as to him. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A103911 -- The People v. Nicklan Ellious Dunson.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A103412 -- Harold Hanerfeld v. City of Berkeley Rent Stabilization Board.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

A103547 -- The People v. Enrique Vargas.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Tuesday, September 14, 2004

Division One

A102889 -- The People v. Laureano Alvarado Valencia.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Three

A103951 -- In re Ebony W., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Glenda G.

The order denying Glenda G.'s section 388 petition as to Ebony W. is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, September 14, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kay, P.J., Reardon, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

A105623 Gene Hazzard

v.

Oakland City Council et al.

Cause called. A. Charles Dell'Ario argued for appellant Hazzard. Joseph Quinn argued for respondents via telephone. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J., Reardon, J. and Sepulveda, J.

A103342 Tom Whitworth et al.

v.

City of Sonoma et al.

Cause called. Michael Healy argued for appellants Whitworth et al. Batya F. Swenson and Raymond J. Fullerton, Jr. argued for respondents. Cause submitted.

A104687 Nacimiento Regional Water Management

v.

Monterey County Water Resources et al.

Cause called. David Hunt argued for appellant NRW. Jennifer L. Harder argued for respondents. Cause submitted.

At this point, the Court reconstituted itself to include: Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A103106 People

v.

Jerome Green

Cause called. Joseph Morehead argued for appellant Green. Ann Wathen argued for respondent. Cause submitted.

A102492 Clear Channel Outdoor, Inc.

A102716 v.

Advertising Display Systems et al.

Causes called. Gerald M. Murphy and Robert Drane argued for appellants/cross-respondents Advertising Display Systems et al. Timothy O'Leary argued for respondent/cross-appellant. Cause submitted.

The Court adjourned at 11:24 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, September 14, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Arnold Stamps, Bailiff.

- A102532 Mercury Casualty Co.
 v.
 Harry Low, as Insurance Commissioner.
Cause called. Douglas L. Hallett argued for appellant Mercury. Michael J. Cornez argued for respondent. Cause submitted.
- A104161 John Drolla
 v.
 ChevronTexaco Corporation et al.
Cause called. Douglas Kahn argued for appellant Drolla. Paul Johnson argued for respondents. Cause submitted.
- A105212 Arthur L. McIntyre et al.
 v.
 Cruise America
Cause called. Daniel Siegel argued for appellants McIntyre et al. Norman LaForce argued for respondent. Cause submitted.
- A104600 Hardy Hodges
 v.
 Wells Fargo, N.A. et al.
Cause called. Patricia Murphy argued for appellant Hodges. Nancy Pritikin argued for respondents. Cause submitted.
- A105446 William Moores et al.
 v.
 Mendocino County Board of Supervisors
Cause called. Ginevra Chandler argued for appellants Moores et al. Frank Zotter, Jr. argued for respondent. Cause submitted.

The Court adjourned at 3:39 p.m.

Tuesday, September 14, 2004 (continued)

Division Five

A104510 -- In re Sean B. et al., Persons Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Erica K.

The orders of the trial court are affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, September 15, 2004

Division Two

A102698 -- George Avanesian v. Innovative Design Group.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Four

A102544 -- Eileen Quacchia v. Daimlerchrysler Corporation.

The order denying certification is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A106378 -- Guy R. Seaton v. James Hand.

The judgment is affirmed. Defendant is awarded costs on appeal. (See Cal. Rules of Court, rule 27.) Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A106036 -- The People v. Ronald Nunez.

No error appearing from the record, the judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Wednesday, September 15, 2004

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

Presiding Justice Marchiano announced that the Court would specially adjourn this morning in honor of Justice John B. Molinari, retired, who passed away on September 13, 2004.

A102209 Oakland Color Service,
 v.
 Bay Area Air Quality Management District, et al.
Cause called and argued by Debra A. Hayes, counsel for appellant, and Scott Patterson, counsel for respondents. Cause ordered submitted.

A104601 Rex Games, Inc.,
 v.
 Mark Chester.
Cause called and argued by Eric D. McFarland, counsel for appellant, and Gary H. Anderson, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Marchiano left the bench and Justice Swager joined the bench. Justice Stein presided for the remainder of the session.

A104665 Danny Ornelas,
 v.
 Yamaha Motor Corporation.
Cause called and argued by David Caldwell, counsel for appellant, and Ralph W. Robinson, counsel for respondent. Cause ordered submitted.

A103014 Hung Ha,
 v.
 Alameda County.
Cause called and argued by Hung Ha, appellant in pro per, and Robert Gaumer, counsel for respondent. Cause ordered submitted.

A102919 Hung Ha,
A103127 v.
A103651 Regents of the University of California, et al.
A103923 Cause called and argued by Hung Ha, appellant in pro per. Andrea S. Carlise specially appeared on behalf of the Regents and its employees but did not represent them and did not argue. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Wednesday, September 15, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

Justice Margulies did not participate in argument of the first case.

A102864 Emilio Guerrero,
A103272 v.
Elaine Oyler, et al.
Causes called and argued by John Scott, counsel for appellant; Harlan Watkins, counsel for respondent USF; and Lois A. Lindstrom, counsel for respondent Oyler. Cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench and Justice Margulies participated in argument for the rest of the session.

A104396 The People,
v.
Sasha Madfes.
Cause called and argued by Alexandra Clay Rahn, counsel for appellant, and Morris Lenk, counsel for respondent. Cause ordered submitted.

A104548 Shirley Weyandt,
v.
Fred Dillett, et al.
Cause called and argued by Steven R. Walker, counsel for appellants, and James C. Glassford, counsel for respondent. Cause ordered submitted.

A105188 Legal Additions LLC,
v.
Gerald V. Niesar, et al.
Cause called and argued by Cristina M. Baroga, counsel for appellants, and Robert P. Gates, counsel for respondents. Cause ordered submitted.
Court adjourned.

Thursday, September 16, 2004

Division One

A099718; A099796; A102027 -- Torey Dylan Lovett v. City and County of San Francisco et al.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Thursday, September 16, 2004

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Swager, J.; and F. Abad, Deputy Clerk.

Justice Margulies was unavoidably not present. Parties stipulated that Justice Margulies does not have to be personally present for first case on calendar.

A105074 Kevin Curry, et al.,

v.

John Garamendi, et al.

Cause called and argued by Rick Bove, counsel for appellants, Thomas Patterson, counsel for respondents George Deukmejian, and Cynthia Larsen, counsel for respondent John Garamendi. James Mangione, counsel for respondents Betty Mabee, appeared but did not argue. Cause ordered submitted.

A104817 Lawrence Marcus, et al.,

A106306 v.

Trautman Wasserman & Company.

Causes called and argued by Dawn Schock, counsel for appellant, and Cliff Palefsky, counsel for respondents. The Court granted respondent's motion to augment record and respondent submitted copies of waiver agreement. Causes ordered submitted.

A105407 Snyder Trust Enterprises, et al.,

v.

Worldpoint Interactive, Inc.

Cause called and argued by Jeffrey Miller, counsel for appellant, and David May, counsel for respondents. Cause ordered submitted.

Court adjourned.

Thursday, September 16, 2004

Division Four

A105623 -- Gene Hazzard v. Oakland City Council et al; Edmund G. Brown, Jr., as Mayor, etc., R.P.I.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J.
(Not for Publication.)

Friday, September 17, 2004

Division One

A102595 -- The People v. Jimmy Garcia.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Four

A103666 -- The People v. Amanullah Khan Jatoi.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A098607 -- Donna Grahm et al. v. Dillingham Construction, Inc.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A098818 -- Donna Grahm et al. v. Exxon Mobil Corporation.

The judgment is reversed and the matter is remanded to the trial court for the sole purpose of recalculating the judgment so that amounts received in settlement for loss of consortium are *not* deducted from the award of economic damages. In all other respects, the judgment is affirmed. Each party shall bear its own costs on appeal. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Monday, September 20, 2004

Division One

A104511 -- In re Michael H., a Person Coming Under the Juvenile Court Law. Corina D. v. Alameda County Social Services Agency.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A102209 -- Oakland Color Service v. Bay Area Air Quality Management District et al.

The trial court's grant of summary judgment against plaintiff on all claims is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A104601 -- Rex Games, Inc. v. Mark Chester.

The order denying RG's petition to compel is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A101281 -- The People v. Miguel Gonzalez.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A103836 -- Jennifer Miller et al. v. Warren E. Rupf et al.

For the foregoing reasons, the judgment is affirmed. Respondents are awarded costs on appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A103538 -- The People v. Diontay Shackelford.

The judgment is affirmed. Kay, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Monday, September 20, 2004 (continued)

A102856 and A103047 -- U-Haul Co. of California, a California Corporation v. Steven Gourley, Director of the Department of Motor Vehicles for the State of California.

We vacate the trial court's order and judgment. We remand this matter to the trial court to determine, consistent with this opinion, whether or not the amount of additional Vehicle License Fees and penalties assessed by the DMV against U-Haul pursuant to the audit are a valid basis for the subject lien, to determine whether orders regarding refunds and an award of interest on refunds are appropriate in light of our ruling, and to issue a revised writ of administrative mandamus consistent with this opinion as well. Each side shall bear its own costs on appeal. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A105044 -- In re Daniel V., a Person Coming Under the Juvenile Court Law. The People v. Daniel V.

The order of the juvenile court is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Four

A103980 -- Marie Bowman et al. v. City of Berkeley; Affordable Housing Associates, R.P.I.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Certified for Partial Publication.)

A104744 -- Steven L. Gomes et al. v. Ukiah Unified School District et al.

The judgment is reversed. The matter is remanded with directions to the trial court to issue a peremptory writ of mandate directing the District to vacate and set aside Resolution #2, 2000-01, imposing the developer fees on appellants, and to conduct further proceedings consistent with this opinion. The trial court shall set reasonable time limits for completion of further agency proceedings. Appellants shall recover their costs. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Monday, September 20, 2004 (continued)

A105791 -- In re the Marriage of Mary K. and Theodore F. Jennings.

The order compelling appellant to serve fully responsive verified further answers to certain special interrogatories, and to pay \$2,000 as a discovery sanction to respondent is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J.

A105159 -- In re Angelique N., a Person Coming Under the Juvenile Court Law. San Mateo County, Human Services Agency v. Saul N.

The order denying visitation to father is reversed. In all other respects, the order is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A107177 -- In re Ryan R., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau v. Stephanie R.

The appeal is dismissed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Certified for Publication.)

Division Five

A103185 -- The People v. Marvin Bryant III.

There are no arguable issues. The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, September 21, 2004

Division One

A104220 -- The People v. Amin Hasan.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A101776 -- In re Oscar S., a Person Coming Under the Juvenile Court Law. Antoinette M. et al. v. Oscar S.

A101931 -- In re Gerard M., a Person Coming Under the Juvenile Court Law. Antoinette M. et al. v. Gerardo M.

The orders denying the petitions for disclosure are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

A099947 -- The People v. Darron Hart.

The judgment is modified to strike the three-year great bodily injury sentence enhancement that was erroneously imposed for the assault conviction. As modified, the judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A106949 -- The People v. Kathleen Rowe-Glendon.

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Tuesday, September 21, 2004 (continued)

Division Four

A105577 -- In re the Marriage of Cheri D. and Keith W. Melville.

The Court: The written opinion which was filed on August 26, 2004, is now certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the official reports. Kay, P.J. (Certified for Publication.)

A105351 -- In re Christopher H., et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau v. Deborah H.

The orders are affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A105415 -- The People v. Kenneth Oliver Owens.

Judgment affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A103496 -- The People v. Linda Patricia Rehfeld.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A106276 -- The People v. Tai Ahn Vu.

Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Wednesday, September 22, 2004

Division One

A105188 -- Legal Additions LLC v. Gerald V. Niesar et al.

The order appealed from is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A102206 -- The People v. Timothy Paul Layton.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, September 22, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Corrigan, J., Parrilli, J., and I. Calanoc, Deputy Clerk.

A104599 Chris John et al.,
v.
Union Carbide Corporation.
Cause called and argued by David Fiol, counsel for appellants, and Camille Fong, counsel for respondent. Cause ordered submitted.

A100937 Jeanette Moore Harris et al.,
v.
Heller Ehrman White and McAuliffe.
Cause called and argued by Craig Moody, counsel for appellants, and Merri Baldwin, counsel for respondent. Cause ordered submitted.

Pollak, J. approached the bench.

A106242 Arntz Builders,
v.
The Superior Court of Contra Costa County.
Justice McGuiness announced that the panel for this case is comprised of Pollak, J., Parrilli, J. and himself. Cause called and argued by Roger Hughes, counsel for petitioners, and Anthony Giles, counsel for real party in interest.

A102956 Winslow Rouse,
v.
Jeannine Rouse.
Justice McGuiness announced that the panel for this case is comprised of Corrigan, J., Parrilli, J. and himself. Ms. Rouse requested oral argument but did not file a respondent's brief and therefore does not have an opportunity for oral argument. Mr. Rouse did file a brief but did not request oral argument. Justice McGuiness asked appellant if there is anything in addition to his brief he would like to present in court; appellant informed the court that his brief covered his argument. Cause ordered submitted.

- A099675 The People,
 v.
 Nicholas C. Jenkins.
Cause called and argued by Philip Brooks, counsel for appellant, and Sharon Wooden, counsel for respondent. Cause ordered submitted.
- McGuinness, P.J. left the bench.
- A105005 Cynthia Baxter,
 v.
 Salutary Sports Clubs, Inc.
The panel for this case is comprised of Corrigan, J., Parrilli, J. and Pollak, J.
Cause called and argued by Abraham Camhy, counsel for appellant, and Frederic Hayes (via teleconference), counsel for respondent. Cause ordered submitted.
- A099342 Jack Chestnut,
 Jerry Wagner,
 v.
 City of Pleasanton.
The panel for this case is comprised of Corrigan, J., Parrilli, J. and Pollak, J.
Cause called and argued by Joan Wolf, Christopher Schlies, counsel for appellants; and Michael Roush, counsel for respondent. Cause ordered submitted.

COURT RECESSED

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, September 22, 2004

Court reconvened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuinness P.J., Corrigan, J., Pollak, J., and I. Calanoc, Deputy Clerk.

A103729 Rosalie Nuanes,
v.
Insignia Financial Group, Inc.
Cause called and argued by Vincent Gresham, counsel for appellant, and Neil Goteiner, Steven Velkei, counsel for respondent. Cause ordered submitted.

A105873 Rosalie Nuanes,
v.
Insignia Financial Group, Inc. et al.
Cause called and argued by Vincent Gresham, counsel for appellants, and Joy Kruse, counsel for respondent. Cause ordered submitted.

A099616 The People,
v.
Mark Mephram Hensley.
Cause called and argued by James Kyle Gee, counsel for appellant, and Nancy Tung, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, September 22, 2004 (continued)

Division Four

A106510 -- The People v. Jonathan Gardner.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A103857 -- The People v. Scott T. Gebro.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A102814 -- Brent Lockett v. Flying Rodea Company et al.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A103342 -- Tom Whitworth et al. v. City of Sonoma et al.

That portion of the judgment against plaintiff Whitworth that holds he has not stated a cause of action for violation of the Bane Act (Civ. Code, section 52.1) is reversed. In all other respects the judgment is affirmed. The judgment of dismissal against plaintiff Chandler is affirmed. Parties to bear their own costs on appeal. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Wednesday, September 22, 2004 (continued)

Division Five

A103965 -- Conservatorship of the Person of Dovella Cloyd.

The order is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J.
(Not for Publication.)

Thursday, September 23, 2004

Division One

A103416 -- Frank Sweis v. Sequoyah Heights Homeowners Association.

The order dismissing the first cause of action is reversed and the matter is remanded. In all other respects, the judgment is affirmed. The parties shall bear their own costs on appeal. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A104184 -- In re Eric W., a Person Coming Under the Juvenile Court Law. Marin County Department of Health and Human Services v. Karen W.

The findings and order appealed from are affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A105311 -- Robert E. Gross v. Charles W. Elmer et al.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A105158 -- In re Juan A., a Person Coming Under the Juvenile Court Law. The People v. Juan A.

The juvenile court orders, filed on October 24, 2003, and December 18, 2003, are affirmed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

A098086 -- The People v. Dorian Emanuel Flippin.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Thursday, September 23, 2004 (continued)

Division Four

A105833 -- In re Jeremy J. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Bonnitta K.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A106288 -- In re Khristena M., a Person Coming Under the Juvenile Court Law. The People v. Khristena M.

The order is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A106043 -- The People v. Arun Kumar Bali.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

September 23, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J., Simons, J., Gemello, J., and Mary P. Quilez, Deputy Clerk.

- A105996 Thomas Ellis
 v.
 Patricia Ellis
 Cause called and argued by David M. Sloan, counsel for appellant and by Alvin Edward Potter, counsel for respondent.
- A104959 Service Employees International Union Local 87
 v.
 Dan Siegel
 Cause called and argued by Daniel Mark Sieger, appellant appearing in proper and by Stewart Weinberg, counsel for respondent. Cause ordered submitted.
- A104999 Pablo Angel
 v.
 Western Shower Door, Inc.
 Cause called and argued by Noreen Elizabeth McDermott, counsel for appellant, and by Timothy P. O'Donnell, counsel for respondent. Cause ordered submitted.

- A105780 Edward Reidy
v.
City and County of San Francisco, et al.
Cause called and argued by Andrew William Schwartz, counsel for appellant and by Andrew Mayer Zacks, counsel for respondent. Cause ordered submitted.
- A104667 Insurance Commissioner of the State of California
v.
Golden Eagle Insurance Corporation
First Southwest Diversified Partners, et al.
Cause called and argued by Richard Patrick Edwards, counsel for appellant, and by Joseph Louis Oliva, counsel for respondents. Cause ordered submitted.
- A103135 Jamel Sanders
v.
Daniel Nackerman, as Director
Cause called and argued by Elizabeth Scott Letcher, counsel for appellant and by Margaret Tormey, counsel for respondent. Cause ordered submitted.
- A104019 The People
v.
Timothy Ray Cameron
Cause called and argued by Walter K. Pyle, counsel for appellant and by Dorian Jung, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A104966 Nexeon Communications, Inc.
v.
Global Asset Capital, LLC.
Cause called and argued by Joseph Clapp, counsel for appellant, and by Francine R. Radford, counsel for respondent. Cause ordered submitted.
- A103353 Richard Lam
v.
Carol Lam
Cause called and argued by Richard Lam, appellant appearing in pro per,

and by Barry Lee Siders, counsel for respondent. Cause ordered submitted.

A102819 City of Brentwood

v.

Central Valley Regional Water Quality Control Board

Cause called and argued by and Andrea June Saltzman, counsel for appellant and by Linda Lea Berg, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court adjourned at 2:30 p.m.

Friday, September 24, 2004

Division One

A103014 -- Hung Ha v. Alameda County.

The trial was within its discretion to conclude that the facts of this case did not fall within the parameters set forth in section 946.6(c)(3). The order is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A102919 -- Hung Ha v. Sean Aranas et al.

The order is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A103923 -- Hung Ha v. Iain M. Frye et al.

The order is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A103651 -- Hung Ha v. Devin Kochis et al.

The order is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A103127 -- Hung Ha v. Mark Rhoden et al.

The order is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A103452 -- The People v. \$3,517 United States Currency, Gordon Leonard McIlvain.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Friday, September 24, 2004 (continued)

Division Three

A105326 -- In re Ronald B., a Person Coming Under the Juvenile Court Law. The People v. Ronald B.

The judgment and order are affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A104599 -- Chris John, et al. v. Union Carbide Corp.

The judgment is affirmed. Plaintiffs shall bear costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A105446 -- William M. Moores et al. v. Board of Supervisors of Mendocino County.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Certified for Publication.)

Monday, September 27, 2004

Division One

A102820 -- Miguel Jara, Sr. v. Suprema Meats, Inc., et al.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

A103556 -- In re Jacob B. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Tessa P. et al.

The order is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A101799 -- The People v. William Felton Butler.

The judgment is affirmed. This case is remanded to the superior court with the direction that it correct the abstract to show a conviction under section 11382 rather than 11355, and that it strike the section 11372 fine. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Certified for Partial Publication.)

Division Three

A099342 -- Jack Chestnut et al. v. City of Pleasanton.

The judgment is affirmed. Respondents are entitled to their costs on appeal. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Five

A104999 -- Pablo Angel v. Western Shower Door, Inc.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Tuesday, September 28, 2004

Division One

A105074 -- John Garamendi v. Golden Eagle Insurance Company.

The appeal is dismissed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A104338 -- The People v. Terrance Samuel Guthery.

The trial court's judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A104942 -- The People v. Scott C. Schubert.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A099995 -- The People v. James Crawford.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A107236 -- Raylene M. v. The Superior Court of Alameda County; Alameda County Social Services Agency, R.P.I.

The petition is denied on the merits. (Cal. Const., art VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [subsequent appeal challenge barred]; § 366.26. (1)(1).) Given the nearness of the October 6 hearing, our decision is final as to this court immediately rule 24(b)(3)). Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Tuesday, September 28, 2004 (continued)

Division Three

A105005 -- Cynthia Baxter v. Salutory Sportsclubs, Inc.

The order denying the motion for attorney fees is affirmed. Salutory shall recover its costs on appeal. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Certified for Publication.)

A100937 -- Jeannette Moore Harris, et al. v. Heller, Ehrman, White & McAuliffe LLP

The judgment is affirmed. Plaintiffs shall bear costs on appeal. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A102956 -- Jeannine A. Rouse v. Winslow C. Rouse.

The June 11, 1003, order is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A104578 -- The People v. Jonathan Shapiro.

Judgment reversed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A104984 -- The People v. Shawn York.

The judgment of conviction is reversed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, September 28, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kay, P.J., Reardon, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A105363 Ronald Daley

v.

Suzanne Meek Tollefson

Cause called. Appellant Ronald Daley argued on his own behalf. K. Scott Dickey argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include: Kay, P.J. and Reardon, J.

A105136 Corio, Inc.

v.

Liveperson, Inc.

Cause called. Stuart Jackson argued for appellant Liveperson, Inc. Marc N. Bernstein argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include: Reardon, Acting P.J. and Rivera, J.

A103413 People

v.

Russell Dwayne Rodgers

Cause called. Mark Shenfield argued for appellant Rodgers. Michael Banister argued for respondent. Cause submitted.

The Court adjourned at 10:41 a.m.

Tuesday, September 28, 2004

Division Five

A105462 -- In re Jerome G., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Charlett R.

The order is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

A105899 -- In re Heather R. et al., Persons Coming Under the Juvenile Court Law. Solano County Department of Health and Social Services v. Brenda S.

The order terminating parental rights is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, September 29, 2004

Division Three

A105460 -- Ben Herman et al. v. Erika Zarco et al.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A104523 -- The People v. Edwin Serrano Martinez.

The judgment is reversed and the matter remanded to the superior court with directions to vacate its order denying the motion to suppress and to conduct a new evidentiary suppression hearing consistent with this opinion and the Supreme Court's opinion in *Sanders, supra*, 31 Cal.4th 318. If the superior court grants the motion to suppress, it shall vacate the judgment and afford defendant an opportunity to withdraw his plea. If the superior court denied the motion to suppress, it shall reinstate the judgment. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A103914 -- The People v. Kenneth Eugene Tarr.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Wednesday, September 29, 2004 (continued)

Division Four

A102492 -- Clear Channel Outdoor, Inc. v. Advertising Display Systems et al.

A102716 -- Clear Channel Outdoor, Inc. v. David Suckle et al.

The judgment is affirmed, except as to the compensatory and punitive damages awards. The judgment is modified to reduce the compensatory damages award to \$108,610. The judgment is reversed as to punitive damages and the cause remanded for a new trial limited to that issue unless, before the decision is final under California Rules of Court, rule 24(b), plaintiff Clear Channel consents to a remittitur of the punitive damages to \$178,121 (\$104,266 against defendant Suckle, \$44,530 against defendant Schendel, and \$29,325 against defendant ADS), and timely serves and files notice of such consent pursuant to procedures specified in California Rules of Court, rule 24(d). If Clear Channel timely consents to the remittitur, the judgment as to punitive damages is affirmed as modified by the remittitur. The parties shall bear their own costs incurred on appeal. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A104687 -- Nacimiento Regional Water Management Advisory Committee v. Monterey County Water Resources Agency.

The judgment of dismissal is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Certified for Publication.)

A105511 -- Naum Morgovsky et al. v. Doubnov Capital Investments, Inc. et al.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A105697 -- The People v. Robert Marcellious White, II

The order of probation is reversed for the sole purpose of resentencing in accordance with this opinion. The order is affirmed in all other respects. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Wednesday, September 29, 2004 (continued)

A105163 -- The People v. Joseph R. Wynn.

The previously imposed restitution fine of \$7,200 is reversed. The abstract of judgment is ordered corrected to reflect a total restitution fine for Cases One and Two of \$2,000, and a total parole restitution fine of \$2,000, which is suspended unless defendant's parole is revoked. (See § 1202.45.) The corrected abstract shall be sent to the Director of the Department of Corrections. In all other respects, the judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Thursday, September 30, 2004

Division One

A104817 -- Lawrence Marcus v. Trautman Wasserman & Company, Inc.

A106306 -- Richard Goldstein v. Trautman Wasserman & Company, Inc.

The order entered on November 4, 2003 in Lawrence Marcus v. Trautman Wasserman & Company, Inc. (A104817) and the order entered on March 29, 2004, in Richard Goldstein v. Trautman Wasserman & Company, Inc. (A106306) are reversed. The respondents and appellants in each case are to bear their own costs on appeal. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A104396 -- The People v. Sahsa Madfes.

For all of the foregoing reasons, the denial of the motion to suppress is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A104665 -- Danny Ornelas v. Yamaha Motor Corporation.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

A105407 -- Snyder Trust Enterprises v. Worldpoint Interactive, Inc.

The order denying WorldPoint's motion to quash service of summons and set aside the default judgment filed January 23, 2002, is reversed. Costs on appeal are awarded to WorldPoint. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A103781 -- The People v. Jaime Solarzano.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Thursday, September 30, 2004 (continued)

A104548 -- Shirley Weyandt v. Fred Dilleth et al.

We conclude that as assignees of the contract rights, the Smallmans are subject to reformation of the agreement to the same extent as their assignor Fred Dilleth. The reformation order against all defendants was not error. Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A105637 -- Sharron Zoller v. Potter Valley Community Unified School District.

The trial court's judgment denying the petition for a writ is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A100240 -- R. Thomas Fair v. Karle E. Bakhtiari, et al.

By the Court: The petition for rehearing is granted. Kline, P.J.

A104358 -- Thomas Williams v. Civil Service Commission of the County of Alameda et al.

The judgment is affirmed. Costs on appeal are awarded to respondents. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A106242 -- Arntz Builders v. The Superior Court of Contra Costa County; County of Contra Costa, R.P.I.

Let a peremptory writ of mandate issue directing respondent court to vacate its order denying Arntz's motion and directing transfer of the action to neutral county pursuant to Code of Civil Procedure section 394. The stay previously issued by this court shall be dissolved upon the issuance of the remittitur. Petitioner shall recover its costs in this writ proceedings. Pollak, J. I concur: McGuiness, P.J. (See concurring opinion by Parrilli, J.) (Certified for Publication.)

Thursday, September 30, 2004 (continued)

A104103 -- The People v. Jamal Darwazeh.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A099675 -- The People v. Nicholas C. Jenkins.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Partial Publication.)

A099741 -- The People v. Michael James O'Hara.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A105411 -- Tammy Pui Sun Ho v. Melvin D. Lee et al.

We reverse the award of attorney fees in the order setting aside the judgment with conditions, and remand for further proceedings to reduce the award, consistent with this opinion. We affirm the order restricting Lee's ability to encumber or sell the Harrison Street property, subject to further action of the court. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A102532 -- Mercury Casualty Company v. John Garamendi.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A106626 -- In re David C., a Person Coming Under the Juvenile Court Law. The People v. David C.

The jurisdictional and dispositional orders are affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Thursday, September 30, 2004 (continued)

A102567, A102859 -- Joswant Dhillon et al. v. Chevron U.S.A., Inc., et al.

The judgment is affirmed. Costs on appeal are awarded to plaintiffs. Following issuance of the remittitur, upon appropriate motion filed in the trial court, plaintiffs shall recover their reasonable attorney fees incurred for defending against the appeal. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A104667 -- John Garamendi v. Golden Eagle Insurance Company; First Southwest Diversified Partners et al.

The order awarding prejudgment interest is affirmed. The motion to augment, or for judicial notice, or for the taking of additional evidence on appeal, is denied. Costs to respondents. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A104219 -- The People v. Sean King.

Appellant's conviction of possession of a short-barreled rifle (§ 12020, subd. (a)(1)) is reversed. In all other respects the judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A105495 -- The People v. Dale Nance.

The order is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)